

Message Text

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ACTION SCS-05

INFO OCT-01 ARA-14 ISO-00 L-03 SCA-01 H-02 DHA-02

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R 042034Z AUG 77
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 4023
ALL USCONS MEXICO

UNCLAS MEXICO 12999

E.O. 11652: NA
TAGS: CASC, MX
SUBJECT: IMPLEMENTATION OF US-MEXICAN TREATY ON EXCHANGE
OF PRISONERS - WITHDRAWAL OF APPEALS

1. SUMMARY. EMBASSY REQUESTS INSTRUCTIONS ON EXTENT OF
EMBASSY PARTICIPATION IN LEGAL ASSISTANCE TO US PRISONERS
WHO WISH APPEALS OR AMPAROS WITHDRAWN.

2. EMBASSY HAS RECEIVED NUMEROUS REQUESTS FROM U.S.
PRISONERS FOR ASSISTANCE IN WITHDRAWAL OF APPEALS OR
AMPAROS. CONSULAR OFFICERS ARE PRESENTLY INFORMING
PRISONERS THAT THEY CANNOT PERFORM THIS FUNCTION.
REALISTICALLY, HOWEVER, EMBASSY IS OF THE VIEW THAT SOME
FORM OF ASSISTANCE SHOULD BE PROVIDED.

3. UNDER MEXICAN LAW AND PROCEDURES, PRISONER MUST
PETITION COURT FOR WITHDRAWAL OF APPEAL OR AMPARO THROUGH
HIS ATTORNEY. IN PRACTICE, THE MAJORITY OF PRISONERS AT
THIS STAGE ARE USING PUBLIC DEFENDERS AND THEY ARE
VIRTUALLY IMPOSSIBLE FOR THE PRISONER TO CONTACT, MUCH
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LESS PERFORM THE REQUESTED SERVICE.

4. EMBASSY CONOFFS ATTEMPTED TO REACH SOME SOLUTION WITH
COURTS AND JUDGES TO NO AVAIL. MATTER WAS THEN TAKEN BY
EMBASSY LEGAL ADVISER TO CHIEF OF PUBLIC DEFENDERS. LEGAL
ADVISER, WITH ASSISTANCE OF CHIEF OF PUBLIC DEFENDERS,
JUDGE OF ONE APPELLATE COURT, FIRST SECRETARY TO JUDGE OF

OTHER APPELLATE COURT, AND SECRETARY TO PRESIDENT OF SUPREME COURT, HAS WORKED OUT A REQUEST FORM HE BELIEVES SHOULD BE LEGALLY EFFECTIVE FOR THE PURPOSE OF WITHDRAWING APPEAL.

5. EMBASSY RECOMMENDS FOLLOWING:

(A) THAT CONSULAR OFFICERS BE AUTHORIZED TO GIVE FORM WORKED OUT BY LEGAL ADVISER TO PRISONERS UPON REQUEST. (B) LEGAL ADVISER WOULD TAKE FORMS TO HEAD OF PUBLIC DEFENDERS WHO THEN WOULD PASS TO PUBLIC DEFENDER ASSIGNED CASE. CONSULAR OFFICERS WOULD MONITOR CASES AND TRY TO ASSURE THAT ACTION WAS BEING TAKEN BY ATTORNEYS AND, IF NOT, MATTER WOULD BE RAISED BY EMBASSY AT APPROPRIATE LEVEL.

(C) IF ABOVE AUTHORIZED, CONOFFS WOULD INFORM PRISONERS OF CHANGE OF POLICY WITH CAVEAT THAT EMBASSY OFFER OF THIS ASSISTANCE SHOULD IN NO WAY BE TAKEN AS ENCOURAGEMENT TO WITHDRAW APPEALS.

(D) ONCE REQUEST IN HANDS OF JUDGE, IT IS LIKELY THAT THE CONSULAR OFFICERS WOULD HAVE TO MONITOR HIS FOLLOW-THROUGH.

6. IN THE REQUEST FORM AS IT HAS BEEN DEVELOPED, THE CONSULAR OFFICER WOULD NOTARIZE THE SIGNATURE BUT, PER UNCLASSIFIED

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THE REQUIREMENTS OF MEXICAN LAW, THE JUDGE WOULD HAVE TO VERIFY THE SIGNATURE AND THE DESIRE OF THE PERSON TO WITHDRAW THE APPEAL OR AMPARO.

7. EMBASSY IS PREPARING FACT SHEET FOR CONOFFS TO GIVE TO PRISONERS WHO MIGHT REQUEST INFO OR ADVICE ON DROPPING APPEALS OR ON ADVISABILITY OF TAKING ADVANTAGE OF TREATY. PURPOSE OF FACT SHEET IS TO ENABLE CONOFF TO AVOID GETTING INTO SUCH DISCUSSION. TEXT BEING SENT SEPTEL FOR DEPARTMENT'S APPROVAL.

8. ACTION REQUESTED BY DEPARTMENT:

EMBASSY REQUESTS INSTRUCTIONS ASAP IN LIGHT OF REAL CONCERN OF PRISONERS WHO WANT APPEALS/AMPAROS WITHDRAWN SO AS TO TAKE ADVANTAGE OF TREATY. ABSENT SOME FORM OF EMBASSY ASSISTANCE WE DO NOT BELIEVE IT REALISTIC TO ASSUME THESE PRISONERS WILL BE ABLE TO WITHDRAW APPEALS/AMPAROS IN TIME FOR INITIAL PRISONER EXCHANGE WITH RESULTANT COMPLAINTS AND PRESSURE ON BOTH USG AND GOM.

ACTION REQUESTED BY CONSTITUENT POSTS:

POSTS ARE INSTRUCTED NOT TO PROCEED TO ASSIST IN WITHDRAWALS PENDING INSTRUCTIONS FROM DEPARTMENT. LUCEY

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
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Concepts: PRISONER EXCHANGE, CONSULAR LEGAL ASSISTANCE
Control Number: n/a
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Decaption Note:
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
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Disposition Event:
Disposition History: n/a
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